**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 2507 of 1998**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**NAVIARAL SEVA SAHKARI MANDLI LIMITED & 51 - Petitioner(s)**
**Versus**
**STATE OF GUJARAT & 6 - Respondent(s)**

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**Appearance :**

MR HARIN P RAVAL for Petitioner(s) : 1,
MS KRINA CALLA, AGP for Respondent(s) : 1 - 2.
RULE SERVED for Respondent(s) : 3 - 4.
NOTICE SERVED for Respondent(s) : 5,

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 03/08/2007**

**ORAL JUDGMENT**

The petitioner has challenged the order dated 23rd March 1998 passed by the District Supply

Officer, Kheda District.

2. The petitioner is a co-operative society. It had applied for grant of authorization to run a fair price shop at village Naviaral, Taluka Kathlal, Dist: Kheda. It is the case of the petitioner that as a co-operative society, it had a priority claim over other applicants. It is not in dispute that the application of the petitioner was accepted and necessary orders were passed in this regard for grant of authorization for running a fair price shop after verifying full details. On 19.1.98, the District Supply Officer, passed an order granting authorization to the petitioner to run a fair price shop. Pursuant to this order, authorization letter No.283/98 was also issued. However, suddenly by the impugned order dated 23rd March 1998, the same authority without any further formality canceled the authorization granted to the petitioner and instead decided to grant the same to one Shri Bhaijibhai Fulabhai Dabhi.

3. While issuing notice on 30th March 1998, this Court had stayed the implementation of the impugned order. Subsequently, while admitting the petition, by order dated 22nd July 1998, the said stay was continued till final disposal of the petition. Learned advocate Shri Vachani appearing for Mr.Harin Raval for the petitioner has stated that under the interim order passed by this Court, the petitioner is even presently running the fair price shop.

4. It is contended by the petitioner that after verifying all details about the eligibility of the petitioner and finding the petitioner society otherwise competent to run the fair price shop, the District Supply Officer had taken decision on the recommendation by the authorities. He could not have, thereafter, changed the decision that too without hearing the petitioner or without following any other formality. It is also contended that the same was done at the behest of respondent Nos.4 & 5 who wanted to favour some other person.

5. Having heard the learned advocates appearing for the parties, I find that the impugned order dated 23rd March 1998 cannot stand the test of law. The facts emerging from the record are eloquent. The petitioner-society was found eligible and meritorious enough to be granted authorization for running a fair price shop. In fact such order was also passed after detailed scrutiny and lengthy correspondence. Abruptly without any further reason, the impugned order came to be passed on the premise that the financial condition of the petitioner is not sound enough to run the fair price shop. There is no material on record to establish this aspect. In any case, the stage for verifying the financial stability of the petitioner had long gone and the Competent Authority had already passed the final order granting authorization to run a fair price shop. At that stage, without disclosing any material to the

petitioner putting him to notice about the proposed recall of the order, the authority took a 'U' turn and decided to grant the authorization in favour of another individual. Under no circumstances, such an order can be sustained in the eye of law. The petitioner has also produced on record the audited accounts of last three years which does not suggest that the petitioner was financially not sound. Additionally, under the protection of this Court, the petitioner has successfully run the shop during the pendency of the petition. It may be noted that the allegations of malafide made by the petitioner against respondents No.4 and 5 have remained uncontroverted. Neither the official respondents nor respondents No.4 and 5 have denied the allegations by filing reply.

6. Considering all these aspects of the matter, the impugned order dated 23rd March 1998 is quashed. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)